Response to June 9, 2006 Office Action

Applicatio 1 No.: 10/735,477

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REMARKS

Applicant appreciates the time taken by the Examiner to carefully review Applicant's present application. At the time of the Office Action mailed June 9, 2006, Claims 1-5, 7, 8, 10, 11, 13-23, 25 and 26 were pending in this Application and were rejected. Claim 1 has been amended. Clear support for the amendment to Claim 1 is shown, for example, in paragraph [0071] of the application. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections Under 35 U.S.C. §102:

Claims 1, 2, 4, 5, 10, 11, 13-18, 25 and 26 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,277,112 granted to Underwood et al. ("Underwood"). Applicant respectfully traverses.

As amended, Claim 1 recites a method for treating an intervertebral disc that includes, among other steps, "independently advancing at least one optic fiber into a nucleus of the disc through an access device". Emphasis added. In contrast, Underwood describes an electrosurgical system in which an endoscope is integrated into a device that also includes, for example, an electrosurgical instrument, an aspiration port and a fluid delivery port. See Fig. 17 and Col. 27, lines 20-42. As such, the integrated endoscopic device of Underwood cannot be independently advanced with respect to a disc as recited. Instead, as the endoscopic device of Underwood is advanced towards a disc, the entire distal end or "working end" of the system is advanced.

Be:ause Underwood does not disclose, teach or suggest each and every recited limitation, it cannot a tricipate Independent Claim 1. Accordingly, Applicant respectfully requests reconsideration, withdrawal of the rejection and full allowance of Claim 1 and Claims 2, 4, 5, 10, 11, 13-18, 25 and 26 which depend therefrom.

Rejections Under 35 U.S.C. §103:

Claim 3, 7, 8 and 21 were rejected under 35 U.S.C. § 103 as being unpatentable over Underwood. For analogous reasons to those recited above, Applicants respectfully submit that

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Underwoo 1 cannot render obvious Claims 3, 7, 8 and 21. Applicant requests reconsideration, withdrawal of the rejections under §103 and full allowance of Claims 3, 7, 8 and 21.

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CONCLUSION

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Applicant has made a sincere effort to address all issues raised in the Office Action. If the Examiner believes a telephone conference would expedite prosecution of this application, a telephone call to the undersigned attorney at the number listed below will be appreciated.

Respectfully submitted,

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Date: 1/11/2004